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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,370

09/29/2006

Pierre Malek

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EXAMINER

STEPHENS III, JOSE S

ART UNIT

PAPER NUMBER

3728

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,370	<b>Applicant(s)</b> MALEK, PIERRE
	<b>Examiner</b> JOSE S. STEPHENS III	<b>Art Unit</b> 3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/23/2006 and 9/29/2006</u> .                                 | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the opening and closure abutments (lugs), flanges, slots, orifices, hollow tubes, and catches must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the lid-forming body" in line 7. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1, 2, 8-10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoblauch (US Patent 6,024,218) in view of Wong (2005/0061815).

With respect to claim 1, figures 1-5 of Knoblauch teaches a stowage device (see figure 1) for stowing tools O, substantially in the shape of a parallelepiped, and comprising at least two bodies fastened together via at least two fastening points (outer

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points along the pivot axis A), one of the two bodies forming a lid 2 and being mounted to pivot about a pivot axis A for opening the device, the two fastening points belonging to the pivot axis A of the lid-forming body, the other body forming a complementary body 1 that is complementary to the lid-forming body, and the stowage device being characterized in that the lid-forming body is provided with means suitable for receiving tools (see the holder 3). Knoblauch does not teach the lid is provided with a protuberant portion at one of its ends for triggering pivoting of the lid by pressing on the protuberant portion. However, figures 1 and 2 of Wong teach a lid 20 that is provided with a protuberant portion 100 at one of its ends for triggering pivoting of the lid by pressing on the protuberant portion. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lid of Knoblauch by incorporating a protuberant portion, as taught by Wong, to allow the lid to be easier pivoting and opening of the lid.

With respect to claim 2, figure 1 of Knoblauch teaches the lid-forming body is provided with a plurality of fastening elements (see the holder 3) that are secured to the inside face of the body, and that serve for fastening the tools.

With respect to claim 8, figure 5 of Knoblauch teaches the fastening points consist of two flanges 5 on the lid-forming body, which flanges are inserted into two slots 7a in the complementary body.

With respect to claim 9, figure 1 of Knoblauch teaches the complementary body is provided with a plurality of small-diameter orifices (see holder 3).

With respect to claim 10, figure 1 of Knoblauch teaches the fastening elements consist of a plurality of hollow tubes (see holder 3), each of which serves to receive at least one tool.

With respect to claim 12, Wong teaches the two bodies (10 and 20) are made of a plastics material (see [0023], lines 1-6).

With respect to claim 13, the combination of Knoblauch and Wong discloses the claimed invention except the complementary body and the lid present two colors that are different from each other. It would have been an obvious matter of design choice to modify the color of the device, since applicant has not disclosed that color of the device solves any stated problem or is for any particular purpose and it appears that the invention would perform equally as well with any color.

7. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoblauch (US Patent 6,024,218) in view of Wong (2005/0061815) as applied to claim 1 above, and further in view of Frick (US Patent 5,984,093).

With respect to claim 3, the combination of Knoblauch and Wong does not teach the device being provided with at least one opening abutment and at least one closure abutment for the lid-forming body. However, figure 2 of Frick teaches a device 1 that comprises opening abutments 420 and closure abutments 120. When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. Therefore, it

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would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Knoblauch by incorporating the opening and closure abutments, as taught by Frick, to allow the lid to lock in place when closed.

With respect to claim 4, Frick teaches the opening abutment fastens to the closure abutment.

With respect to claim 5, figure 2 of Frick teaches the closure abutment is constituted by two lugs on the complementary body.

With respect to claim 6, figure 2 of Frick teaches the two lugs are constituted by an inside lip extending over the length of one of the small sides.

With respect to claim 7, the combination of Knoblauch, Wong, and Frick discloses the claimed invention except for the shape of the complementary body. It would have been an obvious matter of design choice to make the different portions of the complementary body of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knoblauch (US Patent 6,024,218) in view of Wong (2005/0061815) as applied to claim 1 above, and further in view of Germano (US Patent 6,113,202).

With respect to claim 11, the combination of Knoblauch and Wong does not teach the lid is provided with at least two catches extending perpendicularly to its plane face, so as to come into contact with at least one tool. However figure 1 of Germano

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teaches a device 10 comprising catches 24 extending perpendicularly to its plane face that hold tools. When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Knoblauch by incorporating catches, as taught by Germano, to allow the device to hold a variety of tools.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knoblauch (US Patent 6,024,218) in view of Wong (2005/0061815) as applied to claim 1 above, and further in view of Brunson et al. (US 2006/0070900).

With respect to claim 14, the combination of Knoblauch and Wong does not teach a housing with an opening/closure system that contains a plurality of stowage devices. However, figure 2 of Brunson et al. teaches a housing 10 with an opening/closure system that contains a plurality of stowage devices (50, 52, and 54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to store a plurality of stowage devices in a housing, as taught by Brunson et al., to provide storage space for a plurality of tools.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are devices analogous to applicant's instant invention.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSE S. STEPHENS III whose telephone number is 571-270-3797. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JILA M MOHANDESI/  
Primary Examiner, Art Unit 3728

JSS  
09/25/2008